

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Gary L. CUMMINGS et al.

Appln. No.: _____
[Continuation of Application No.: 09/259,300
filed March 1, 1999]

Confirmation No.: NOT ASSIGNED

Group Art Unit: 1616 (parent)

Filed: November 20, 2001

Examiner: N. S. LEVY (parent)

For: CHEMICALLY STABLE, INSECTICIDALLY ACTIVE
PHOSPHOROAMIDOTHIOATE PELLET COMPOSITIONS AND METHODS FOR
THEIR MANUFACTURE

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

This Preliminary Amendment accompanies the concurrent filing of a Rule 53(b)

Continuation Application based on pending parent Application No. 09/259,300. Please amend
this application as follows:

IN THE SPECIFICATION:

**Amend the specification by deleting the paragraph under the heading "Cross-
Reference To Related Applications" on page 1 of the application, and replace it with the
following:**

--This application is a continuation of U.S. Patent Application No. 09/259,300, filed
March 1, 1999, which is a divisional of U.S. Patent Application No. 09/992,714, filed December
17, 1997, now U.S. Patent 6,013,272, all of which claim benefit and priority under 35 U.S.C. §

PRELIMINARY AMENDMENT

Appln. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

119(e) of the following two United States Provisional Applications: Serial No. 60/033,572 filed December 19, 1996 and Serial No. 60/039,504 filed March 4, 1997. Each of the foregoing applications and provisional applications is incorporated herein by reference.--

IN THE CLAIMS:

After granting this application a filing date, please cancel claims 1-68, without prejudice or disclaimer.

Please add the following new claims 69-91:

--69. (New) An insecticidal pellet consisting essentially of acephate and a polymeric processing aid, wherein said pellet has a moisture content of up to about 0.5% by weight and is chemically stable.

70. (New) The insecticidal pellet according to claim 69, wherein said acephate is present in an amount of at least about 97% by weight.

71. (New) The insecticidal pellet according to claim 70, wherein said acephate is present in an amount of about 97 to about 99.5% by weight.

72. (New) The insecticidal pellet according to claim 69, wherein said pellet has a bulk density of about 26 to about 31 lbs/ft³.

73. (New) The insecticidal pellet according to claim 69, wherein said pellet has a bulk density of about 36 to about 40 lbs/ft³.

74. (New) The insecticidal pellet according to claim 69, wherein the polymeric processing aid is present in amount of about 0.5 to about 3% by weight.

PRELIMINARY AMENDMENT

Appl. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

75. (New) The insecticidal pellet according to claim 69, wherein the polymeric processing aid is a vinylpyrrolidone-vinyl acetate copolymer.

76. (New) The insecticidal pellet according to claim 69, wherein the pellet has a moisture content of up to about 0.3% by weight.

77. (New) The insecticidal pellet according to claim 69, wherein the pellet contains no surfactants.

78. (New) The insecticidal pellet according to claim 69, wherein the pellet contains no organic solvents.

79. (New) A chemically stable insecticidal pellet comprising about 97 to about 99.5% by weight of acephate as an active ingredient, about 0.5 to about 3% by weight of a polymeric processing aid, a bulk density of about 26 to about 31 lbs/ft³, and having a moisture content up to about 0.3% by weight.

80. (New) The chemically stable insecticidal pellet according to claim 79, wherein the polymeric processing aid is a vinylpyrrolidone-vinyl acetate copolymer.

81. (New) The chemically stable insecticidal pellet according to claim 79, wherein the pellet contains no surfactants.

82. (New) The chemically stable insecticidal pellet according to claim 79, wherein the pellet contains no organic solvents.

83. (New) A chemically stable insecticidal pellet consisting essentially of acephate and up to about 3% by weight of a polymeric processing aid, wherein said pellet has a moisture

PRELIMINARY AMENDMENT

Appl. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

content of up to about 0.3% by weight and remains substantially free-flowing without caking or compaction under drum storage conditions.

84. (New) The chemically stable insecticidal pellet according to claim 83, wherein said acephate is present in an amount of at least about 97% by weight.

85. (New) The chemically stable insecticidal pellet according to claim 84, wherein said acephate is present in an amount of about 97 to about 99.5% by weight.

86. (New) The chemically stable insecticidal pellet according to claim 83, wherein said pellet has a bulk density of about 26 to about 31 lbs/ft³.

87. (New) The chemically stable insecticidal pellet according to claim 83, wherein said pellet has a bulk density of about 36 to about 40 lbs/ft³.

88. (New) The chemically stable insecticidal pellet according to claim 83, wherein the polymeric processing aid is present in amount of about 0.5 to about 3% by weight.

89. (New) The chemically stable insecticidal pellet according to claim 83, wherein the polymeric processing aid is a vinylpyrrolidone-vinyl acetate copolymer.

90. (New) The chemically stable insecticidal pellet according to claim 83, wherein the pellet contains no surfactants.

91. (New) The chemically stable insecticidal pellet according to claim 83, wherein the pellet contains no organic solvents.--

PRELIMINARY AMENDMENT

Appl. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

REMARKS

This application is a Continuation Application of pending parent Application No. 09/259,300, filed March 1, 1999. In the parent application, claims 76 and 77, directed to chemically stable insecticidal pellets containing acephate as an active compound, were allowed in the August 21, 2001 Notice of Allowability. The present Continuation Application presents additional claims for examination, which are likewise directed to chemically stable insecticidal pellets containing acephate as an active compound.

Among newly presented claims 69-91, claims 69, 79 and 83 are independent claims directed to preferred embodiments of the present invention. Each of these claims has certain features in common with the allowed claims of the parent application; however, the present claims are directed to different particular combinations of features and/or have a different scope in one or more regards than the allowed claims of the parent application. However, virtually all of the various features claimed in claims 69-91 are believed to have been claimed in one or more of the original claims of the present application and its parent, now cancelled, or were presented during prosecution of the parent but were cancelled without prejudice or disclaimer. Thus, no issues of new matter arise and entry of claims 69-91 for examination on the merits are respectfully requested. New claim 83 recites that the claimed pellet remains substantially free-flowing without caking or compaction under drum storage conditions. Since this particular property of the pellets is not believed to have been expressly recited in the claims of the prior

PRELIMINARY AMENDMENT

Appln. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

application(s), the Examiner is kindly requested to refer to page 6, first full paragraph, Example 7 and Figures 1 and 2 for support.

Further, newly presented independent claims 69 and 83 define the pellet as "consisting essentially of" acephate and the other recited components. Such language would exclude significant amounts of non-specified ingredients which would affect the novel and material properties of the claimed pellets. *See, e.g., PPG Industries, Inc. v. The Guardian Industries Corp.*, 48 USPQ 2d 1351, 1353-54 (Fed. Cir. 1998).

All of claims 69-91 are believed to be patentable over the prior art of record. An Information Disclosure Statement listing all of the documents of record in the parent application is submitted herewith; if any of the listed documents is not readily available to the Examiner, they can be easily supplied upon request by the undersigned.

In view of the foregoing, it is believed that the present application is in condition for allowance. Such action is earnestly solicited.

Respectfully submitted,



Mark Boland
Registration No. 32,197

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Date: November 20, 2001

PRELIMINARY AMENDMENT

Appl. No.: _____

[Continuation of Application No.: 09/259,300
filed March 1, 1999]

APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1-68 are hereby cancelled without prejudice or disclaimer.

Claims 69-91 are added as new claims.

09/259,300